

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE**

**IN RE: BENICAR (OLMESARTAN)  
PRODUCTS LIABILITY LITIGATION**

**MDL No. 2606**

Honorable Robert B. Kugler,  
District Court Judge

This document relates to:

**Mollie Tower  
v.**

Honorable Joel Schneider,  
Magistrate Judge

**DAIICHI SANKYO, INC. ET AL**

**SHORT FORM COMPLAINT**

Plaintiff(s) file(s) this *Short Form Complaint and Demand for Jury Trial* against Defendants named below by and through the undersigned counsel. Plaintiff(s) incorporate(s) by reference the allegations contained in the *Plaintiffs' Master Long Form Complaint and Jury Demand in In re: Benicar (Olmesartan) Products Liability Litigation*, MDL 2606 in the United States District for the District of New Jersey, Camden Vicinage. Plaintiff(s) file this Short Form Complaint as permitted by Case Management Order No. 6 of this Court.

In addition to those causes of action contained in *Plaintiffs' Master Long Form Complaint and Jury Demand*, where certain claims require specific pleading and/or amendments, Plaintiff(s) shall add and include them herein.

## **IDENTIFICATION OF PARTIES**

### **Identification of Plaintiff(s)**

1. Name and residence of the individual injured due use of *olmesartan* product(s): **Mollie Tower, 40 N. IH 35, #11D1, Austin, TX**

2. Plaintiff(s) is/are a citizen of **Austin, TX**

3. Consortium Claim(s): The following individual(s) allege damages for loss of consortium: \_\_\_\_\_

4. Survival and/or Wrongful Death Claims:

a. Name and residence of Decedent Plaintiff when he/she suffered *olmesartan* products(s) related injuries and/or death: \_\_\_\_\_

5. Plaintiff/Decedent was born on: **07/16/1945**

6. Plaintiff filing this case in a representative capacity as the

\_\_\_\_\_ of the \_\_\_\_\_

having been duly appointed as the \_\_\_\_\_ by the

\_\_\_\_\_ Court of \_\_\_\_\_

Plaintiff(s) claims damages as a result of:

- ☒ injury to herself/himself
- ☐ injury to the person represented
- ☐ wrongful death
- ☐ survivorship action
- ☒ economic loss
- ☒ loss of services
- ☐ loss of consortium

**Identification of Defendants**

7. Plaintiff(s)/Decedent Plaintiff(s) is/are suing the following Defendant(s)

(please check all that apply):

**Daiichi Sankyo Defendants:**

- ☒ Daiichi Sankyo, Inc.
- ☒ Daiichi Sankyo U.S. Holdings, Inc.
- ☒ Daiichi Sankyo Co., Ltd.

**Forest Defendants:**

- ☒ Forest Laboratories, LLC, f/k/a Forest Laboratories, Inc.
- ☒ Forest Pharmaceuticals, Inc.
- ☒ Forest Research Institute, Inc.

**Additional Defendants:**

☐ Other Defendant(s) (please specify): \_\_\_\_\_

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**JURISDICTION AND VENUE**

**Jurisdiction:**

8. Jurisdiction in this Short Form Complaint is based on:

☒ Diversity of Citizenship

☐ Other (As set forth below, the basis of any additional ground

for jurisdiction must be plead in sufficient detail as required by the applicable  
Federal Rules of Civil Procedure) \_\_\_\_\_

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**Venue:**

9. District Court and Division in which remand trial is proper and where you  
might have other filed this Short Form Complaint absent the direct filing order by  
this Court:

**Western District Court of Texas**

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**CASE SPECIFIC FACTS**

10. Plaintiff(s) currently reside(s) in (City, State):

**Austin, TX**

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11. At the time of Plaintiff's/Decedent's *olmesartan* product(s) injury, Plaintiff/Decedent resided in (City, State):

**Austin, TX**

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12. Plaintiff/Decedent began using *olmesartan* product(s) as prescribed and indicated on or about the following date: **2002**.

13. Plaintiff/Decedent was prescribed and used the following *olmesartan* products:

- ☒ BENICAR®
- ☐ BENICAR HCT®
- ☐ AZOR®
- ☐ TRIBENZOR®

14. As a result of ingesting *olmesartan* products, Plaintiff/Decedent suffered personal and economic injur(ies), including, but not limited to, the following:

**Serious gastrointestinal injuries that include: villous atrophy, sprue-like enteropathy, colitis, kidney failure, malabsorption, malnutrition, dehydration, atrophy, and/or symptoms of diarrhea, vomiting, nausea, abdominal pain, and/or other related symptoms.**

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### **CAUSES OF ACTION**

15. Plaintiff(s) hereby adopt(s) and incorporate(s) by reference the *Master Long Form Complaint and Jury Demand* as if fully set forth herein.

16. The following claims and allegations asserted in the *Master Long Form Complaint and Jury Demand* are herein adopted by the Plaintiff(s):

- ☒ Count I: Products Liability – Design Defect (Strict Liability)
- ☒ Count II: Products Liability – Failure to Warn (Strict Liability)
- ☒ Count III: Gross Negligence
- ☒ Count IV: Negligence
- ☒ Count V: Negligence *per se*
- ☒ Count VI: Negligent Design
- ☒ Count VII: Negligent Misrepresentation
- ☒ Count VIII: Fraudulent Concealment
- ☒ Count IX: Constructive Fraud
- ☒ Count X: Fraud
- ☒ Count XI: Breach of Express Warranties
- ☒ Count XII: Breach of Implied Warranties
- ☒ Count XIII: Unjust Enrichment
- ☒ Count XIV: Violation of Consumer Protection Law of the State  
of **Texas**\_\_\_\_\_.
- ☐ Count XV: Loss of Consortium
- ☐ Count XVI: Wrongful Death

☐ Count XVII: Survival Action

☒ Count XVIII: Punitive Damages

☐ Furthermore, Plaintiff(s) assert(s) the following additional

theories and/or State Causes of Action against Defendant(s) identified in paragraph (4) above. If Plaintiff(s) include(s) additional theories of recovery, to the extent that they require specificity in pleadings, the specific facts and allegations supporting these theories must be pled by Plaintiff(s) in a manner complying with the requirements of the Federal Rules of Civil Procedure.

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**WHEREFORE,** Plaintiff(s) pray(s) for relief and judgment against Defendants of compensatory damages, punitive damages, interests, costs of suit, and such further relief as the Court deems equitable and just, and as set forth in the *Master Long Form Complaint and Jury Demand* as appropriate.

**JURY DEMAND**

Plaintiff(s) hereby demand a trial by jury as to all claims in this action.

Dated: 6/26/17

Respectfully Submitted by,

**/s/Daniel A. Nigh**

**Counsel for the Plaintiff(s)**

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